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**MARTIN & FERRARO, LLP**  
**1557 Lake O'Pines Street, NE**  
**Hartville, Ohio 44632**

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**FACSIMILE TRANSMITTAL****TO:**

**Name:** Mail Stop AMENDMENT  
 (Group Art Unit 3732)

**Firm:** U.S. Patent & Trademark Office

**Fax No.:** 703-872-9306

**Subject:** U.S. Patent Application No. 09/497,590  
 Gary Karlin Michelson, M.D.

Filed: June 6, 2000

APPARATUS INCLUDING A GUARD MEMBER  
 HAVING A PASSAGE WITH A NON-  
 CIRCULAR CROSS SECTION FOR  
 PROVIDING PROTECTED ACCESS TO THE  
 SPINE (as amended)

Attorney Docket No. 101.0044-03000

Customer No. 22882

Confirmation No.: 7688

**FROM:**

**Name:** Thomas H. Martin, Esq.

**Phone No.:** 330-877-2277

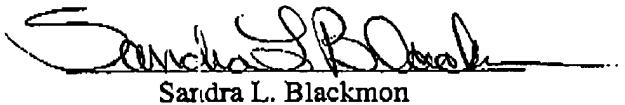
**No. of Pages (including this):** 17

**Date:** September 10, 2004

**Confirmation Copy to Follow:** NO

**Message:****CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate; \$126.00 additional claims fee to be charged to Deposit Account No. 50-1066), Amendment, and Request for Interference Under 37 C.F.R. § 1.604 are being facsimile transmitted to the U.S. Patent and Trademark Office on September 10, 2004.



Sandra L. Blackmon

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FORM PTO-1083

Attorney Docket No.: 101.0044-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson, M.D.

Serial No: 09/497,590

Filed: June 6, 2000

For: APPARATUS INCLUDING A GUARD  
MEMBER HAVING A PASSAGE WITH A  
NON-CIRCULAR CROSS SECTION FOR  
PROVIDING PROTECTED ACCESS TO THE  
SPINE (as amended)

Confirmation No.: 7688

Art Unit: 3732  
Examiner: (Unassigned)RECEIVED  
CENTRAL FAX CENTER

SEP 10 2004

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- No additional fee is required.
- Applicant hereby requests a \*\*\*-month extension of time to respond to the above office action.
- A Request for Interference Under 37 C.F.R. § 1.604 is enclosed.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	85	-	78	**	7	LG=\$18 SM=\$9	\$ 126.00
INDEPENDENT CLAIMS FEE	3	-	3	***	0	LG=\$86 SM=\$43	\$ 86
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS						LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$140	\$ 0
						TOTAL	\$ 126.00

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- A fee in the amount of \$126.00 to cover the additional claims is to be charged to Deposit Account No. 50-1066.
- A check in the amount of \$\_\_\_\_ to cover the \*\*\*-month extension of time fee is enclosed.
- The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLPBy: Thomas H. Martin  
Registration No. 34,383

Date: September 20, 2004

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030

FORM PTO-1083

Attorney Docket No.: 101.0044-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson, M.D.

Serial No: 09/497,590

Filed: June 6, 2000

For: APPARATUS INCLUDING A GUARD  
MEMBER HAVING A PASSAGE WITH A  
NON-CIRCULAR CROSS SECTION FOR  
PROVIDING PROTECTED ACCESS TO THE  
SPINE (as amended)

Confirmation No.: 7688

Art Unit: 3732

Examiner: (Unassigned)

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TOTAL CLAIMS FEE	86	-	78	**	LG=\$18 SM=\$9	\$ 126.00
INDEPENDENT CLAIMS FEE	3	*	3	***	LG=\$86 SM=\$43	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$140	\$ 0
					TOTAL	\$ 126.00

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

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- Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: September 20, 2004

By:   
Thomas H. Martin  
Registration No. 34,3831557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030

PATENT  
Attorney Docket No. 101.0044-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Gary K. Michelson, M.D. )  
Serial No.: 09/497,590 ) Confirmation No.: 7688  
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For: APPARATUS INCLUDING A ) Group Art Unit: 3732  
GUARD MEMBER HAVING A ) Examiner: Unassigned  
PASSAGE WITH A NON- )  
CIRCULAR CROSS SECTION )  
FOR PROVIDING PROTECTED )  
ACCESS TO THE SPINE (as )  
amended) )

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Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT**

Prior to the examination of the above-identified application, the following  
amendments and remarks are submitted:

**Amendments to the Claims** are reflected in the listing of claims, which begins on  
page 2 of this paper.

**Remarks** begin on page 11 of this paper.

Amendment 9-10-04